

### Remarks/Arguments

Claims 24-27 and 36 remain in this application.

Claims 24- 27 and 36 have been rejected under 35 USC 103(a) over EP 319,701 in view of US 4,614,585 (Mehla et al). The Office Action states that the EP reference teaches all the elements of the claims except for the elastomeric seal and that it would have been obvious from Mehra et al to use its teaching of an elastomeric seal in the invention of the EP reference in order have a more effective seal of Mehra et al. Applicant disagrees.

In order for there to be proper combination of references, there must be some motivation (expressed or implied) found within the prior art teachings to suggest to one of ordinary skill in the art to make the combination and that knowledge cannot come from the applicant's invention itself. See *In re Oettiker*, 24 USPQ2d 1443 (Fed Cir 1992).

The EP reference uses a one piece device (F shown in the drawings as a single continuous piece of material) having three segments, 1a (above the filter), 1b(below the filter and tapering toward the outlet) and an outlet portion 1c. Two support pieces that are separate and distinct from device are inserted into the channel of the device. Between the two support pieces is a filter. This filter may either be clamped by its edges between the two support pieces or alternatively it may be loosely inserted between them. (page 6, line 12-14 of the English translation). The two support pieces are secured to the interior of the device either by mating threads as in the embodiment of Figure 1 or by a recess as shown in the embodiment of Figure 2 into which the support pieces and filter are snap fit.

Mehra et al. is cited for its use of a gasket between the membrane and the inlet piece (14) of the device. The gasket forms two seals, a seal between the inlet piece and the membrane and a

second seal between the inlet piece and the separate support plate (16) below the membrane.(Column 2, lines 54-66).

It would not have been obvious to one of ordinary skill in the art to use a gasket of Mehra et al in the device of the EP reference. First, the EP reference either uses the two support pieces to clamp the filter edge or the filter is loosely inserted into the space formed between the two support pieces. There is no teaching or suggestion that a better seal is required or desired. To the contrary, there is an embodiment where no seal seems to be needed (loosely fit in between the two support pieces). One of ordinary skill in the art from reading the EP reference would not have been motivated to consider seeking out the gasket of Mehra et al as it is not needed nor does it seem provide any benefit to the device of the EP reference.

Secondly, the device of the EP reference is a one piece design having a channel into which the support pieces and the filter are placed and retained. One of ordinary skill in the art from reading the EP reference and Mehra et al would not have been motivated to use the gasket of Mehra et al which relies upon a three piece housing (top, bottom and support plate) to place the gasket in position, then compress it to form the two seals and then sealing the pieces together to hold it in place. At best, one might have considered inserting a gasket between the filter and one of the support pieces to form a seal (if one ignores the teaching of the EP reference that the filter can simply be loosely fit between the support pieces), but even that embodiment does not teach or suggest the present invention as claimed.

The present invention uses two pieces, an intake and a drainage body. The drainage body is formed so as to have a concave support means formed on it adjacent the filter. It also has a wall portion that presents a surface for contact with an elastomer seal that is formed as part of the intake

body. The filter is squeezed between the surface of the wall of the drainage body and the seal formed as part of the intake body. This is neither taught nor made obvious from the cited references to one of ordinary skill in the art.

Reconsideration and allowance are respectfully requested in view of the foregoing amendment and remarks.

Respectfully submitted,

  
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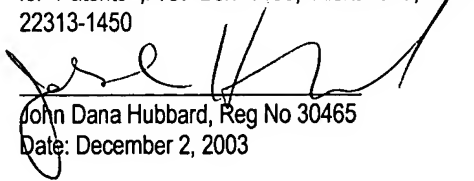
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